



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2006251
Applicant Name: Jim Maier
Address of Proposal: 1411 Sunset Avenue SW

SUMMARY OF PROPOSED ACTION

Master Use Permit to establish use for future construction of a single family residence in an environmentally critical area.

The following Master Use Permit components are required:

Environmentally Critical Areas (ECA) Exception - To allow construction of a single family residence which would exceed the 30% maximum limit of land disturbing activities in a steep slope environmentally critical area.
(Seattle Municipal Code 25.09.180A3a)

Variance - To allow a curb cut wider than 10 feet. (SMC 23.54.030.F.1.b)

SEPA DETERMINATION: ☒ Exempt* ☐ DNS ☐ MDNS ☐ EIS
 ☐ DNS with conditions
 ☐ DNS involving non-exempt grading or demolition, or
 involving another agency with jurisdiction.

*A single family residence located within an environmentally critical area (ECA) with less than 9,000 square feet of development coverage is exempt from SEPA.

BACKGROUND DATA

Existing Conditions

The existing parcel is 7,161 square feet in size and approximately rectangular in shape. The site is covered with blackberries, ivy, volunteer shrubs and trees. The site slopes downward from southeast to northwest, varying in elevation from approximately 235 feet at the top of the property to about 180 feet at the bottom property line. Steep slopes in excess of forty percent (40%) are located at the top and bottom of the lot and slopes less than forty percent (40%) bisect the lot due to a former access road to a lower property. The plot is mapped as an environmentally critical area. The parcel is bounded by Sunset Avenue SW, a City of Seattle Park on the lower slope and platted lots on both sides. A new home has been built on the lot adjacent to the northeast. The adjacent lot to the southwest is vacant. Access to the site is from Sunset Avenue SW. An existing water and sanitary sewer line are located within the Sunset Avenue SW right-of-way. The parcel is located within a Single Family 5000 zone (SF 5000) and meets the minimum lot area requirements. Zoning in the surrounding area is SF 5000.

Proposal

The applicant has applied for an ECA exception to a steep slope development standard to construct a single family residence which will require the disturbance of more than 30 percent (30%) of slopes in excess of 40 percent (40%). The proposed development would have 1,143 gross square feet of living area on the main floor plus a two-car garage of 472 square feet. The second story would have a master bedroom suite and basement below would have bedrooms and a family room. An unfinished sub-basement is proposed to be unimproved. The single family residence would meet all other development standards other than the maximum number of curb cuts allowed as defined in the Land Use Code. Access to the site would be from Sunset Avenue SW.

Public Comment

The City received several comment letters during the public comment period which was extended to October 11, 2000. The comments focused on two main issues. The first issue was concern that the City not allow any building on this site due to its ECA designation and secondly, that several lots away a slide caused hillside damage. A second comment period ended February 26, 2003 after the project was renoticed to include the curb cut variance request. Several additional comments were received.

Environmental Critical Area Exception

The Director may modify an environmental critical area development standard when an applicant demonstrates to the Director's satisfaction that strict application of the development standards would not allow reasonable use of the property and that development undertaken pursuant to the modified standards would not cause significant injury to occupiers of the land, to other properties, and to public resources, or to the environment. The relief granted by reduction, waiver or other modification of an environmentally critical area development standard shall be

the minimum necessary to allow reasonable use of the property. In modifying a development standard, the Director may impose reasonable conditions that prevent or mitigate the same harm that the modified regulation was intended to prevent or mitigate.

ANALYSIS - ENVIRONMENTALLY CRITICAL AREAS EXCEPTION

Technical Studies

The applicant has submitted a soils report and a geotechnical building study. Based on that report, the building will not cause significant injury to occupiers of the land, to other properties, and to public resources, or to the environment. The project will pose no threat to others or to the residents if designed as per the stated plan and annotations by DCLU geotechnical engineers.

Lot Disturbance

The applicant has requested that the Director modify an ECA development standard to allow for the construction of a single family residence not meeting steep slope development standards. The proposal asks to exceed disturbance of over thirty percent (30%) of slopes measured to be over forty percent (40%) slope as required in SMC 25.09.180. This site has 3,030 square feet measured to be greater than 40% slope. The applicant proposes to disturb the soil with grading and development activity. All grading and development activity would be limited to within 3 feet of the building footprint and kept uphill from the lower steep slope area. Vegetation clearing would be minimized and any necessary replanting will be with appropriate species to aid in erosion control.

Steep Slopes

Forty-two (42) percent of the site is in steep slopes. The steep slopes are in two non-contiguous areas. An area with slopes less than forty (40) percent bisects the site at a diagonal. Site history suggests the upper slope was partially created in road grading of Sunset Avenue, thus steepening the existing slope. At mid level, an access road was graded to enable previous owners to reach development on an adjacent lot. The lower steep slope is part of the natural slope of the hillside and previous grading. Development on the lower portion of the site where previous grading flattened some of the slope would cause more site disturbance than development on the upper site due to locating and constructing required parking, driveway and utility access and any construction activity. A house at mid-level on the hillside would be out of character with the neighboring residences, who have been able to build at street level. The Environmentally Critical Areas Ordinance limits disturbance to no more than 30% of steep slope areas. The applicant requests an exception to be able to disturb 56.6% for the steep slope disturbance including a 3-foot construction zone adjacent to the building.

An unusual and unique feature of this site is the amount and location of the steep slopes caused in part by the bisecting roadway. Forty-two (42) percent of the site area has steep slopes. They are located in two areas. Since the total amount of steep slopes represents a relatively moderate amount of the entire site, the code limitation of disturbing a maximum of 30% of the 40% slope area dictates that the building and associated disturbance be approximately 900 square feet. The

total amount of steep slopes and their location create a unique hardship at this site. Required parking is best located at the top of the slope to not create more slope disturbance from an access road. A house configured to fit within the old bisecting roadway and a reduced slope area of the upper slope would be an out-of-the-ordinary requirement.

The proposed disturbance must be the minimum necessary to allow reasonable use of the property. The applicant states that 909 square feet of disturbance area is not reasonable to allow for construction of a single family residence and two-car garage with a 3-foot disturbance area.

Building Footprint

Four residences to the northeast and four residences to the southwest were examined for their building footprint exclusive of garages. Seven (7) residences have building footprints larger than the proposed new building, between 1,175 and 1,950 square feet. One (1) residence has a building footprint less than the proposal at 1,020 square feet. The proposed new construction would have a footprint of 1,143 square feet plus 472 square feet for a two-car garage. The average building footprint of the residences examined is 1,398 square feet. The proposed footprint is less than the average building footprint of neighboring houses on the view slope of Sunset Avenue.

Lot Coverage

The single family residence would be limited to thirty-five percent (35%) lot coverage as per the SMC 23.44.010C. The residence, garage, decks over 18 inches, and any accessory structures would be included in this lot coverage calculation. Lot coverage in this proposal is 31%.

Parking

The applicant proposes a two-car garage. The ECA exception language states that relief from development standards shall be the minimum necessary to allow reasonable use of the property. It is the opinion of the department that one parking stall, as required by the Land Use Code, is the minimum necessary to allow reasonable use.

Slope Stability

The subject site is located immediately southwest of developed properties that experienced landslides in 1996-97. The landslides did not extend into the subject property, and remediation efforts to stabilize the site immediately north of the subject site did not provide restraint for the near-surface soils on the subject site. The Geotechnical report recognizes that the subject site is potentially unstable and thus, design measures are required to stabilize the lot.

The geotechnical report was reviewed by DCLU geotechnical engineers. The report and subsequent follow-up by the applicant's geotechnical engineer describes the possible injurious effects of the proposed development on occupiers of the land, on other properties, on public resources, and on the environment. The geotechnical report concludes that construction of the house is feasible from an engineering standpoint and will not significantly impact occupiers of the land, other properties, public resources or the environment. The report outlines

recommendations and engineering techniques to be employed when designing and constructing the residence.

Summary

In consideration of the size and location of the site; the extent and location of steep slopes on the site; the conclusions of the geotechnical report; required conditions of approval which mitigate stormwater runoff and erosion before and after construction; and to the extent that the existing development standards limit future development of the site, the Director agrees that compliance with the critical areas ordinance would not allow reasonable use of the site. Development confined to critical areas which occupy the upper steep slope may exceed the 30% disturbance limitation. Side yard requirements will be retained but may be disturbed during construction and replanted. The development must not encroach into the lower steep slope area. The building may abut the upper line of the lower steep slope, but no disturbance, construction area, building or deck may encroach upon the lower steep slope. Thus, the building footprint and construction area may disturb much of the upper steep slope and the bisecting roadway. Total disturbance of steep slope areas shall be limited to 1143 square feet plus 236 square feet for a one-car garage, for a total of 1379 square feet. Furthermore an additional 3 foot wide area around the perimeter of the structure footprint will be allowed for temporary construction activity. Except for the porch, walkway, driveway, and a 12 inch roof overhang, this 3 foot area shall be restored and maintained as pervious surface after construction is completed. The front porch and walkway located in steep slopes may not extend more than 3 feet from the 1379 sq. ft. footprint. No more than one parking space (surface or garage) will be permitted on site.

DECISION - ENVIRONMENTALLY CRITICAL AREAS EXCEPTION

This application has been **CONDITIONALLY GRANTED**. Conditions are listed at the end of this report.

ANALYSIS - VARIANCE

As provided in SMC 23.40.020, variances from the provisions or requirements of this Land Use Code shall be authorized only when all of the following facts and conditions are found to exist:

1. *Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity;*

The subject property is located at the top of a steep slope between Sunset Avenue SW and Alki Beach in West Seattle. The property slopes down to the NW at approximately 60% grade. Access is only available from Sunset Avenue SW. Front yard setbacks are not required due to the steep slope. A 10-foot curb cut and driveway allowed by SMC 23.54.030.F.1.b will not allow reasonable access from Sunset Avenue SW for two

vehicles since the drive has no space to widen between the property line and the face of the garage. An 18-foot wide curb cut and driveway is requested to allow the subject property the same rights and privileges enjoyed by other properties in the vicinity. Of the six (6) adjacent developed bluff properties, three (3) on either side of the subject property, four have two-vehicle curb cuts, one has a single-vehicle curb cut that expands into a two-vehicle driveway between the curb and property line. However, the ECA exception language states that relief from development standards shall be the minimum necessary to allow reasonable use of the property. One parking stall, as required by the Land Use Code, is the approved number of parking stalls if the building design submitted for a building permit uses the eca exception. If the applicant revises the project to be an Environmentally Critical Area Ordinance compliant design with disturbance of no more than 30% of the steep slope and the design has a two car garage then the variance for a wider curb cut is available. The variance is not available in addition to the eca exception.

2. *The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;*

The requested 18-foot wide curb cut and driveway within the right-of-way is typical for two vehicle accesses. The wider curb cut is only necessary to afford relief if the second car garage is actually permitted and constructed. Since the ECA exception will not allow for more than one parking space on site, the variance can only be granted if the second parking space can be permitted through a code complying design.

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;*

Since on-street parking utilization in the vicinity is typically below capacity, the possibility that the additional curb cut width could potentially reduce the amount of on-street parking by about one space would not be detrimental to the public welfare. Improvements would be done to City of Seattle standards and would not be injurious to the property or surrounding improvements

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue and unnecessary hardship;*

The steepness of the subject site makes placement of a garage unrealistic in any position other than adjacent to the right-of-way property line. The strict interpretation and application of SMC 23.54.030.F.1.b limits the curb cut and driveway to 10 feet in width and therefore, would also limit proposed development to a single vehicle garage. If the applicant has a code complying design that includes a two car garage near the front property line a 10 foot curb cut limitation would cause a unique and unnecessary hardship since one of the spaces could not be used.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

The requested variance from a maximum 10-foot to a maximum 18-foot curb cut and driveway is consistent with the spirit and purpose of the Land Use Code and is supported by similar variances granted to other properties within the adjacent neighborhood. The requested variance does not affect light, air, access or open space; disrupt the natural environment of historic resources; alter neighborhood scale; alter traffic patterns; or modify the streetscape and pedestrian environment beyond that allowed by strict application of the Land Use Code.

DECISION - VARIANCE

The proposed variance is **CONDITIONALLY APPROVED**.

CONDITIONS - ENVIRONMENTALLY CRITICAL AREAS EXCEPTION

Prior to Issuance of a Master Use Permit

1. Revise plans to reflect development with a building footprint and construction area that does not disturb any steep slopes that are not within the upper steep slope area above the bisecting roadway. Revise the plans to show a maximum disturbance to steep slopes as follows:
 - Maximum building foundation footprint of 1143 sq ft plus a maximum 236 sq ft for a one-car garage.
 - Maximum 3 foot wide area around the perimeter of the structure footprint allowed for temporary construction activity.
 - Except for the porch, walkway, driveway and 12 inch roof overhang, this 3 foot area shall be restored and maintained as pervious surface after construction is completed. The front porch and walkway located in steep slopes may not extend more than 3 feet from the 1379 sq ft footprint.
 - No more than one parking space (surface or garage) will be permitted on-site. Driveway and curbcut are limited to a maximum 10 feet in width. Standard curb cut flares will be allowed. (The curb cut variance cannot be utilized in conjunction with the ECA Exception.)
 - If the applicant chooses to revise plans to not utilize the ECA Exception, the project must be revised to be compliant with the maximum 30% disturbance allowed for steep slope areas on-site.

CONDITIONS – VARIANCE

Prior to Issuance of a Master Use Permit

2. Revise the plans to reflect development consistent with the Environmentally Critical Areas Ordinance, including disturbance of no more than 30% of the steep slope area on-site. The Variance to allow an 18-foot curb cut is granted only for a revised project which includes a 2-car garage and also complies with the 30% maximum disturbance of steep slopes. The variance is not granted for a design which exceeds the 30% maximum disturbance of steep slope area. If the applicant chooses to revise plans to not utilize the ECA Exception, the project must be revised to be compliant with the maximum 30% disturbance allowed for steep slope areas on-site. If the ECA Exception will be utilized, the revised plans must show a code-compliant maximum 10 foot curb cut. Standard curb cut flares will be allowed.

Signature: (signature on file) Date: March 24, 2003
Holly Godard, Land Use Planner
Department of Design, Construction and Land Use

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